

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 6: Court	Effective Date: August 1, 2011
	Section 3: Fact-Finding Hearing	Version: 4

STATEMENTS OF PURPOSE

The Fact-Finding hearing is the setting in which DCS must prove that the child has a condition as set forth in the Indiana Code (IC) under [IC 31-34-1-1](#) through [IC 31-34-1-11](#); DCS must show that the situation meets one or more of the Child In Need of Services (CHINS) definitions as set forth in the Indiana Code under [IC 31-34-1-1](#) through [IC 31-34-1-11](#), and DCS must show that coercive intervention of the court is necessary to protect the child. See [Tool 6.B: Statutory Definition of CHINS](#) for further details.

DCS will ensure that a CHINS fact-finding hearing takes place when either parent or another named party has evidence regarding the condition of the child who is alleged to be a Child in Need of Services and who desires to contest the facts alleged in the DCS CHINS petition.

DCS will provide notice of any Fact-Finding Hearing to all parties to the case and the resource parent or other caretaker with whom the child has been placed for temporary care. See policy, [6.4 Providing Notice](#).

DCS will request separate hearings for the parents if there are safety concerns, when appropriate.

DCS will protect the confidentiality of information shared during court proceedings and the safety of the non-offending parent. This may include, but is not limited to:

1. Presenting addresses and contact information for the parent who is an alleged victim of domestic violence in a sidebar;
2. Requesting that confidential information regarding the parent who is an alleged victim of domestic violence not be read aloud in the court room;
3. Requesting that security escort the parent who is an alleged victim of domestic violence and/or alleged domestic violence offender in and out of the court room and to their vehicle, if necessary; and/or
4. Requesting that service providers redact their service reports prior to providing a copy to the alleged domestic violence offender.

Code References

1. [IC 31-34-1-1 Inability, refusal, or neglect of parent, guardian, or custodian to supply child with necessary food, clothing, shelter, medical care, education, or supervision](#)
2. [IC 31-34-5-1: Time for hearing; notice](#)
3. [IC 31-34-10-6: Admission or Denial of Allegations of a Petition](#)
4. [IC 31-34-10-9: Dispositional Hearing, Factfinding Hearing: consent](#)
5. [IC 31-34-11-1: Factfinding Hearing on Child in Need of Services \(CHINS\)](#)

PROCEDURE

The FCM will:

1. Obtain the date, time, and location of the Fact-Finding Hearing from the DCS Staff Attorney;

Note: The Fact-Finding Hearing will be held within 60 calendar days from the date the CHINS petition was filed. A pretrial conference may be ordered by the court, and under some limited circumstances an additional 60 calendar days is allowed. See [Related Information](#) for further details.

2. Request separate hearings be held for the non-offending parent and alleged domestic violence offender, when appropriate.
3. Attend the scheduled hearing:

Note: If the court determines that the child is a CHINS, they will proceed to the appropriate hearing. If the court determines that the child is not a CHINS, the case will be dismissed.

4. Enter court hearing data in the case management. If Reasonable Efforts to prevent placement or Placement and Care responsibility findings are issued for the first time at this hearing, assure that this is entered in the case management.

The Supervisor will:

1. Assist the FCM, whenever necessary, to ensure that all Fact-Finding Hearing requirements have been met. See policy, [6.4 Providing Notice](#).
2. Assist the DCS Staff Attorney with hearing preparation, including ensuring that the FCM is prepared to provide testimony during the Fact-Finding Hearing.

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

1. [Preliminary Inquiry – CHINS Benchbook Forms](#)
2. [Assessment of Alleged Child Abuse or Neglect \(SF 113\) \(311\)](#) – Available in the case management system
3. [Tool 6.B: Statutory Definition of CHINS](#)
4. [Affidavit of Diligent Inquiry \(SF 54778\) \(ADI\)](#)

RELATED INFORMATION

Fact-Finding Hearing Requirements

The juvenile court will complete a Fact-Finding Hearing not more than 60 calendar days after a petition alleging that a CHINS is filed. The juvenile court may extend the time to complete a Fact-Finding Hearing for an additional 60 calendar days if all parties in the action consent to the

additional time.

If the Fact-Finding Hearing is not held immediately after the Detention and Initial Hearing, the department will provide notice of any Fact-Finding Hearing to each party and resource parent or other caretaker with whom the child has been placed for temporary care, unless the court provided written notice at a previous hearing. The court will provide a person who is required to be notified an opportunity to be heard at the Fact-Finding Hearing.

As mentioned in [6.2 Filing a CHINS Petition](#), the Detention/Initial Hearing should have federally required findings included in the order for IV-E eligibility determination. The court order language includes Best Interest/Contrary to the Welfare, Reasonable Efforts, and Placement and Care for criteria purposes. The Detention/Initial Hearing also allows the FCM to gather pertinent information for the IV-E eligibility criteria that may have been previously missed or not available.